



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cleveland General--Request for Reconsideration

File: B-225804.3

Date: June 1, 1987

DIGEST

Request for reconsideration of decision denying protest is denied where protester fails to show any error of law or fact in original decision and instead relies solely on new argument which could have been but was not raised in initial protest.

DECISION

Cleveland General requests reconsideration of our decision, Cleveland General, B-225804.2, Apr. 23, 1987, 87-1 CPD ¶ ___, dismissing its protest concerning the award of a contract to Southwest Aerospace Corporation under invitation for bids (IFB) No. DAAH01-87-B-0006, issued by the Army for ballistic aerial targets. We deny the request for reconsideration.

In its protest, Cleveland General challenged the Army's determination that Southwest was the lowest responsive bidder under the IFB. Cleveland General argued that Southwest's bid was nonresponsive because it contained a more accelerated delivery schedule than required by the IFB. Cleveland General also argued that Southwest's bid was not low if certain additional costs involved in accepting the accelerated delivery schedule were added to the bid. We rejected Cleveland General's arguments since the IFB specifically authorized bidders to propose, and reserved the Army's right to accept, an accelerated delivery schedule. We also found that the additional factors which Cleveland General argued should be added to Southwest's bid could not be considered because the IFB did not provide for evaluation of those factors.

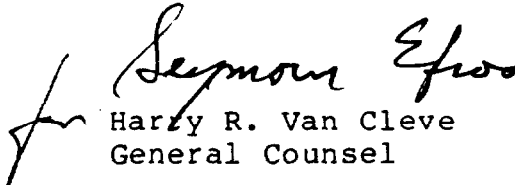
In its request for reconsideration, Cleveland General does not challenge the conclusions in our decision; rather, Cleveland General raises a new argument not raised in its initial protest which it maintains requires rejection of Southwest's bid. Specifically, Southwest submitted two

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sets of prices, one for delivery under the schedule set out in the IFB, and another, lower set of prices for delivery under its proposed accelerated schedule. Cleveland General argues that since the IFB allowed bidders to submit accelerated delivery schedules but not alternate prices, the Army could not properly consider Southwest's lower, alternate prices for accelerated delivery.

In order to prevail in a request for reconsideration, a party must show that our decision was based on an error of fact or law. Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1986). Cleveland General has made no such showing here, relying instead solely on its new argument regarding consideration of Southwest's alternate prices for accelerated delivery. That issue is untimely and does not provide a basis for reconsideration, however, since Cleveland General could have but did not raise it in the initial protest. See 4 C.F.R. § 21.2(a)(2); Joseph L. De Clerk and Associates, Inc.--Reconsideration, B-221723.2, Feb. 26, 1986, 86-1 CPD ¶ 200. In any event, we find the argument to be without merit since the requirement that the contracting agency consider only those price-related factors specified in the IFB in determining the low bid does not prohibit bidders from submitting alternate bids, as Southwest did here.

The request for reconsideration is denied.


Harry R. Van Cleve
General Counsel